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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1914.

No. 494.

LESLIE C. STALLINGS, APPELLANT,

vs.

MAURICE SPLAIN, UNITED STATES MARSHAL IN AND FOR THE DISTRICT OF COLUMBIA.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED SEPTEMBER 4, 1915.

(27,388)

(27,289)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 534.

LESLIE C. STALLINGS, APPELLANT,

vs.

MAURICE SPLAIN, UNITED STATES MARSHAL IN AND FOR THE DISTRICT OF COLUMBIA.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 7, 1920.

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1 Court of Appeals of the District of Columbia.

No. 3225.

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, U. S. Marshal, &c.

Supreme Court of the District of Columbia.

No. 734. Habeas Corpus.

In the Matter of Lester C. Stallings, Application for Writ of Habeas Corpus.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, That in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

Application for Writ of Habeas Corpus.

Filed June 11, 1918.

In the Supreme Court of the District of Columbia.

No. 734. Habeas Corpus.

In the Matter of LESTER C. STALLINGS, Application for Writ of Habeas Corpus.

To the Supreme Court of the District of Columbia:

Your petitioner, Lester C. Stallings, states as follows:

1st. That he is a citizen of the United States, and that he is a resident of the District of Columbia;

2nd. That on the 10th day of June, A. D. 1918, he was arrested in the District of Columbia by the United States Marshal in and for the said District, but not in response to any warrant issued in the District of Columbia, but on a warrant issued by the United
2 States District Court for the District of Wyoming—the purpose of said warrant being to require him to appear in the said United States Court for the District of Wyoming and there answer an indictment charging him with embezzlement;

3rd. That his arrest as aforesaid was not made in pursuance to any judicial proceeding in the District of Columbia whatsoever; that he has not been accorded due process of law as to notice of the alleged charges against him; that he is now, and will continue to be, illegally held in custody by the said United States Marshal of the District of Columbia unless and until granted the release herein prayed for;

Wherefore your petitioner prays that the Writ of Habeas Corpus be issued directing the United States Marshal for the District of Columbia to produce before this honorable court the body of your petitioner for a hearing according to law;

That upon such hearing an order be made releasing your petitioner from the custody of the said Marshal of the District of Columbia, or if that is not consistent, then bail be fixed in a reasonable sum for his release from custody pending such further hearing as the facts herein set forth may render meet and proper.

LESLIE C. STALLINGS,
Petitioner.

Subscribed and sworn to before me this the 11th day of June, A. D. 1918.

J. R. YOUNG, *Clk.*
By F. E. CUNNINGHAM,
Ass't Clk.

Fiat.

Let the writ issue as prayed—returnable before me forthwith.

WALTER I. McCOY,
Chief Justice.

Writ of Habeas Corpus.

Filed June 11, 1918.

* * * * * * *

The President of the United States to Maurice Splain, U. S. Marshal, Greeting:

You are hereby commanded to have the body of Lester C. Stallings detained under your custody, as it is said, together with the day and cause of his being taken and detained, by whatever name he may be called in the same, before the Honorable Walter I. McCoy, Chief Justice of the Supreme Court of the District of Columbia, in Criminal Court No. 2, Emery Building, City of Washington (immediately), after the receipt of this writ, to do and receive whatever shall then and there be considered of in his behalf, and have then and there this writ.

Witness, The Honorable Walter I. McCoy, Chief Justice of said Court, the 11th day of June, A. D. 1918.

[SEAL.]

J. R. YOUNG,
Clerk.
By F. W. SMITH,
Assistant Clerk.

Marshal's Return.

Service accepted this 11th day of June, 1918.

MAURICE SPLAIN,
U. S. Marshal, D. C.

Return of Maurice Splain, U. S. Marshal.

Filed July 16, 1918.

* * * * * * *

Now comes Maurice Splain, United States Marshal for the District of Columbia, by whom service of the writ of habeas corpus herein was accepted, respondent, and for return thereto states:

1. That on the 10th day of June, 1918, in the District of Columbia, he arrested the petitioner herein, under and by virtue of a bench warrant issued out of the District Court of the United States for the District of Wyoming, a copy whereof is hereto annexed and made part hereof, in which said warrant petitioner is described by the name of Leslie C. Stallings, and thereupon so admitted his name to be, and for a time detained petitioner pending the institution of proceedings for the removal of said petitioner to the District of Wyoming for trial before the District Court of the United States for said District of Wyoming, upon the charges in said warrant mentioned.

2. That petitioner remained in the custody of respondent from the time of his arrest as aforesaid until the 11th day of June, 1918, when, in obedience to said writ, respondent produced the body of petitioner before the Honorable Walter I. McCoy, Chief Justice of this Honorable Court, by whom, on motion by Petitioner, this proceeding was continued for hearing at a future time, and petitioner was released under bail bond in the sum of $2,000, conditioned for his future appearance herein, for which reason, and because of the matters hereinafter recited, respondent is now unable to have said petitioner here in Court.

3. That subsequently, on the 27th day of June, 1918, complaint was duly made before Isaac R. Hitt, Esquire, a United States Commissioner for the District of Columbia, charging petitioner with the commission of the offenses mentioned in said warrant, whereupon said Isaac R. Hitt, United States Commissioner as aforesaid,
4 duly issued his warrant for the arrest of said petitioner; and thereafter, on the 5th day of July, 1918, petitioner vo-untarily appeared before the said Isaac R. Hitt, United States Commissioner as aforesaid, in said District, for hearing, and submitted himself to the custody of this respondent; whereupon, petitioner having admitted his identity and former official character as described in said complaint and having entered thereto a plea of not guilty, the United States, on its part, produced a duly certified copy of the indictment pending against petitioner in the District Court of the United States for the District of Wyoming mentioned in the bench warrant of

which a copy is hereto annexed, the original bench warrant aforesaid, and certain correspondence from the U. S. Marshal for the District of Wyoming to the U. S. Marshal for this District, all of which were admitted in evidence without objection by petitioner; and thereupon, petitioner, by his attorney, William B. Jaynes, Esq., announced that he would offer no evidence on his part, but moved that petitioner be discharged, which said motion, after argument, was denied; whereupon, petitioner, with the advice of his counsel, requested to be admitted to bail for his appearance in the District Court of the United States for the District of Wyoming, on the first day of the next term thereof, and was thereupon admitted to bail, in the sum of $2,000, for his appearance therein as aforesaid, with George W. Ray as surety.

Wherefore, having made full and certain return to the writ herein, respondent prays that the petition herein be dismissed and the writ discharged.

MAURICE SPLAIN,
U. S. Marshal, D. C.

Maurice Splain, being first duly sworn, on his oath says that he has read the foregoing return by him subscribed, that he is acquainted with the contents thereof, and that he verily believes the statements of fact therein made to be true.

MAURICE SPLAIN.

Subscribed and sworn to before me this 16th day of July, 1918.
[SEAL.] JAMES A. C. PALMER,
Notary Public, D. C.

JOHN E. LASKEY,
United States Attorney, D. C.
By JAMES B. ARCHER.

THE UNITED STATES OF AMERICA,
District of Wyoming:

The President of the United States of America to the United States Marshal of the District of Wyoming, Greetings:

You are hereby commanded that you take the body of Leslie C. Stallings if he shall be found in your District, and safely him keep, so that you have his body before the District Court of the
5 United States, for the District of Wyoming, at the building used as an United States Court House, in the City of Cheyenne, in said District, forthwith, to answer unto the United States of America, in a certain bill of Indictment, preferred against him in said Court for violation of Sec. 97 F. P. C. 1910. Embezzlement of moneys in connection with land office matters (8 counts.)

And have you then and there this writ, with due return thereon endorsed.

Witness, The Honorable John A. Riner, Judge of the said District Court, and the seal thereof, at the City of [SEAL.] Cheyenne, in said District, this 15th day of May, A. D. 1918, and of the Independence of the United States the 142nd year.

CHARLES J. OHNHAUS,
Clerk.

By FLORENCE BRADLEY,
Deputy Clerk.

And on the back thereof the words and figures following:

"No. 906. District Court of the United States, District of Wyoming. The United States of America vs. Leslie C. Stallings. Bench Warrant. The defendant may be let to bail before an United States Commissioner in the sum of $2,000.00. Charles J. Ohnhaus, Clerk. C. L. Ringdon, United States District attorney."

Petition for Writ of Certiorari.

Filed July 18, 1918.

* * * * * * *

To the Honorable Court:

Your petitioner, Leslie C. Stallings, respectfully avers and shows the Court that he was arrested by the United States Marshal in and for the District of Columbia on June 10, 1918, by virtue of what purported to be a bench warrant issued by the United States District Court in and for the District of Wyoming, and which warrant charged embezzlement; that on June 11, 1918, your petitioner sued out a writ of habeas corpus in the Supreme Court of the District of Columbia, was ordered released from prison on the giving of bail in the sum of $2,000 to await further hearing on the said charge of embezzlement and that before a final hearing and full determination of that application by the Supreme Court of the District of Columbia and on July 5, 1918, your petitioner was again arrested by the United States Marshal for the District of Columbia in response to the commands of a bench warrant issued by Isaac R. Hitt, a United States Commissioner in and for the District of Columbia, and that
6 said last named warrant charged embezzlement committed in the United States Judicial District of Wyoming, and that after a hearing before the said United States Commissioner on July 5, 1918, your petitioner was ordered committed for extradition in default of bail in the sum of $2,000 for his appearance before the United States District Court in and for the District of Wyoming, and in order to avoid immediate imprisonment bail was given as suggested by the Commissioner. Your petitioner further avers that the said warrant of arrest by the said United States Commissioner was in truth and in fact for exactly the same counts and charges as those under which your petitioner was arrested on June 10, 1918, and under which

charges his said writ of habeas corpus was applied for and granted, and which had not been finally disposed of by the Supreme Court of the District of Columbia and the final disposition of which still awaits before this Honorable Court. Your petitioner avers that he does not believe that the said United States Commissioner acted within his legal powers in issuing the said warrant of arrest, in hearing evidence and argument in the matter, in ordering petitioner's commitment if bail should not be given, and therefore, your petitioner believes that all of the said Commissioner's actions, decrees, and orders of every kind and character whatsoever are wholly void and of no effect, because petitioner's application in habeas corpus was then pending in full force, power, and effect in this Honorable Court, because no final hearing and conclusion as to the merits thereof had been reached in this Court. Your petitioner further avers that he is not guilty of the crime charged, that he believes the allegations set forth in the respective warrants and in the certified copy of the indictment under which the last said warrant was issued by the said United States Commissioner do not legally charge a crime within the provisions and meaning of any statute of the United States; that he believes the Supreme Court of the District of Columbia has exclusive jurisdiction of your petitioner until his said application is fully disposed of by it, and that so believing he alleges that all of the proceedings before the said United States Commissioner are wholly null, void, and of no effect whatsoever, and that he is in law entitled to be released wholly from the purported power, force, and effect of said proceedings.

All the premises being duly considered, your petitioner prays this Court that an order be issued directing the Clerk of the Supreme Court of the District of Columbia to issue a writ of certiorari to the said Isaac R. Hitt, a United States Commissioner in and for the District of Columbia, returnable July 23, 1918, at 10 o'clock in the forenoon directing the said Commissioner to send to this Honorable Court all of the papers of whatsoever kind or character connected in and with the arrest, hearing, order of commitment or bond of your petitioner under the charge of embezzlement in the hearing as conducted by him on July 5, 1918, including certified copy of indictment and petitioner's motion for rehearing, as by statute in
7 such cases made and provided for use in connection with petitioner's hearing for final discharge on habeas corpus as prayed for in original petition.

LESLIE C. STALLINGS,
Petitioner.

DISTRICT OF COLUMBIA:

Personally appeared before me Leslie C. Stallings, who after being by me duly sworn according to law says:

I have read the foregoing petition by me signed. The said application for a writ of certiorari is not made for purposes of delay, and I verily believe that I have a meritorious defense in law to the charge of embezzlement as set forth in my foregoing petition.

LESLIE C. STALLINGS.

Subscribed and sworn to before me this 18th day of July, 1918.

J. R. YOUNG,
Clerk,
By F. W. SMITH,
Ass't Clerk.

DISTRICT OF COLUMBIA:

I do solemnly swear that I have read the foregoing petition by me signed, and that I know full well the contents thereof; and the statement of facts therein made as upon personal knowledge are true, and those made upon belief I believe to be true.

LESLIE C. STALLINGS.

Subscribed and sworn to before me this 18th day of July, 1918.

J. R. YOUNG,
Clerk,
By F. W. SMITH,
Ass't Clerk.

WILLIAM B. JAYNES,
Attorney for the Petitioner, Leslie C. Stallings.

Jurat.

Filed July 18, 1918.

* * * * * * *

To the Supreme Court of the District of Columbia:

Now comes Leslie C. Stallings, the original petitioner in the above styled and numbered cause, and alleges, affirms, and prays this Honorable Court as follows:

1st. That the original application in this said cause was filed on June 11th, 1918, as shown by Habeas Corpus docket in and for
8 the Supreme Court of the District of Columbia, the said application being numbered 734, and that your said affiant was released on bail in the sum of $2,000 to await a hearing on the merits July 2nd, 1918; that on the 2nd day of July, 1918, when the said cause came on for hearing in the Supreme Court of the District of Columbia an order of continuance was granted by the Honorable Justice Hitz, and the hearing fixed for 10 o'clock A. M., July 16th, 1918.

2nd. That before the final disposition of affiant's application for Habeas Corpus and on July 5th, 1918, he was arrested by the United States Marshal in and for the District of Columbia on a warrant issued on or about June 27th, 1918, by Isaac R. Hitt, a United States Commissioner in and for the District of Columbia, and that after a hearing before the said Commissioner on July 5th, 1918, the said Commissioner ordered the commitment of your affiant, and that in order

to avoid being placed in prison your affiant then and there gave bond in the sum of $2,000 in accordance with the direction of the said United States Commissioner.

3rd. That the issuance of the warrant by the said United States Commissioner and all of the proceedings thereunder before him embraced the same state of facts an grew out of the same alleged transactions and are based upon the same indictment as is now involved in the hearing before this Honorable Court. Your affiant, therefore, believes that the issuance of the said warrant of arrest, his arrest thereunder, and all actions and orders of the United States Commissioner made in said matter before him and during the pendency of this application and before its complete and final disposition by the Supreme Court of the District of Columbia were null, void, and of no legal effect whatsoever, and therefore on the 8th day of July, 1918, your said affiant filed an affidavit with the said United States Commissioner setting forth in full the pendency of affidavit's application for final release on Habeas Corpus, and asking said Commissioner to enter an order making of no effect his previous actions and orders to await the termination on the merits of affiant's aplication for discharge on Habeas Corpus. The United States Commissioner denied the request of affiant; and your affiant now prays this Honorable Court for an order declaring all of the proceedings and orders and actions taken thereunder by the United States Commissioner to be null, void, and of no effect whatsoever, because your said affiant has been continually since June 11th, 1918, in the legal custody of the Supreme Court of the District of Columbia, and will so remain in the absolute and exclusive control of said Court until his said application for release on Habeas Corpus is finally disposed of.

4th. That the warrant on which your affiant was arrested on June 10th, 1918, and the insufficiency of which is alleged by your affiant, states that the indictment herein was based on Section 97 of the Criminal Code of the United States, and the allegation in the certified copy of the indictment in the said cause, and which copy was not available for inspection by your affiant on June 11th, when the application for Habeas Corpus was filed, recites that certain moneys were received by your affiant while Acting as United States
9 Commissioner, and while so acting that said respective sums as alleged were embezzled by him. Your affiant states that he does not believe that he was an officer of the United States or an assistant to any such officer, within the meaning of Section 97 of the Criminal Code of the United States while acting as such United States Commissioner, but that he was an officer of the Court under which he held the appointment as United States Commissioner.

5th. That neither the said warrant nor the certified copy of the indictment does with sufficient particularity set out and describe the acts which constitute a charge of embezzlement, because there is no sufficient allegation as to the ownership of the moneys alleged to have been embezzled, and the ownership is neither alleged in the names of the respective parties from whom the moneys were re-

ceived nor in the receiver of the United States Land Office at Cheyenne, Wyoming, nor in the United States.

6th. You- said affiant further avers that he does not believe that while acting as United States Commissioner he was in any sense an officer to receive money from persons in any way indebted to the United States for the use and benefit of the United States, and, therefore, he does not believe that the said warrant and indictment in any way or manner charges a crime against any statute or law of the United States; and that if any money were received by him from any of the parties named in the said indictment (and which receipt and retention thereof he denies) for the purposes named in said indictment then the said sums were received by him in a private capacity and not as any officer of thee United States, nor as an assistant to any officer of the United States, nor as an officer of any court of the United States.

LESLIE C. STALLINGS.

Sworn to and subscribed before me on this the 16" day of July, A. D. 1918.

JOHN R. YOUNG,
Clerk,
By W. F. LEMON,
Ass't Cl'k.

Order for Writ of Certiorari.

Filed July 18, 1918.

* * * * * * *

The petition for a writ of Certiorari as prayed for in the above entitled and numbered cause having — duly considered by the Court the same is hereby approved, and the Clerk of this Court will proceed to issue the writ as requested in applicant's petition.

July 18, 1918. F. L. SIDDONS,
Justice.

WILLIAM B. JAYNES,
Attorney for Petitioner.

10 *Return of Isaac R. Hitt, U. S. Commissioner.*

Filed July 20, 1918.

Writ of Certiorari, Issued July 18th, 1918.

The President of the United States to Isaac R. Hitt, U. S. Com'r, Greeting:

For sufficient reasons shown by the petition in this case you are hereby commanded to certify and send to this Court, on or before July 23d, 1918, at 10 o'clock A. M., your proceedings in the case

of Lester C. Stallings with all things touching the same, as fully and entirely as it remains before you, by whatsoever names the parties may be called in said proceedings, together with this writ, that said Court may cause to be done what of right ought to be done in the premises.

Witness, the Honorable Walter I. McCoy, Chief Justice of said Court, the 18th day of July, A. D. 1918.

[SEAL.] J. R. YOUNG,
Clerk.
By F. W. SMITH,
Assistant Clerk.

(Endorsed:) Return July 19, 1918, to said Writ Herewith filed. Isaac R. Hitt, U. S. Commissioner.

Return to a Writ of Certiorari.

In the U. S. Commissioner Court of the District of Columbia.

No. 184.

UNITED STATES OF AMERICA, Plaintiff,

vs.

LESLIE C. STALLINGS, Defendant.

Action for Violation Sec. 97 of U. S. Penal Code.

Date. 1918.	Proceedings.
June 27.	Complaint filed—Issued Warrant of arrest.
July 5.	Hearing—arraignment of prisoner.
	Certified Copy of Indictment, original Bench Warrant & 2 Letters from Dist. of Wyoming.
" 5.	Found probable ground to believe said defendant guilty as charged.
" 5.	Bond $2,000—George W. Ray, Surety.
11 July 8.	Motion filed & affidavit, & application for Vacating of proceedings & orders. Denied by Commissioner.
July 19.	Return made to Writ by U. S. Commissioner Hitt, When the annexed writ of certiorari was received, whereby the proceedings before this Court stopped.

DISTRICT OF COLUMBIA, *ss:*

The Honorable Commissioner of the U. S. Commissioner Court, D. C., by virtue of the annexed writ, to said court delivered, do hereby certify the record and proceedings in the suit in the writ mentioned, unto the Supreme Court of the District of Columbia, together with all things touching the same, as fully and wholly as the same are now depending before said Commissioner's Court.

Witness the Honorable Commissioner of said U. S. Commissioner Court, this 19th day of July, A. D. 1918.

[SEAL.] ISAAC R. HITT.
U. S. Commissioner for the District of Columbia.

(United States Commissioner's Blanks, No. B.)

Warrant to Apprehend.

The President of the United States of America to the Marshal of the United States for the District of Columbia and to His Deputies, or Any or Either of Them:

Whereas, Frank M. Helan has made complaint in writing under oath before me, the undersigned, a United States Commissioner for the District of Columbia charging that Leslie C. Stallings, late of Town of Encampment, in the State of Wyoming did, on or about the sundry dates set out in attached copy Affidavit of Complaint which is made a part hereof, in violation of Section 97 of U. S. Penal Code in the State and district of Wyoming unlawfully convert to his own use and fraudulently embezzle eight certain sums of money, as is more fully set forth in certified copy of Affidavit of Complaint filed herein, which is attached hereto, and made a part hereof, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to apprehend the said Leslie C. Stallings wherever found in your District, and bring his body forthwith before me or any other commissioner having
12 jurisdiction of said matter, to answer the said complaint, that he may then and there be dealt with according to law for the said offense.

Given under my hand and seal this 27th day of June, A. D. 1918.

[SEAL.] ISAAC R. HITT,
United States Commissioner as Aforesaid. [SEAL.]

Approved:
JOHN E. LASKEY,
United States Attorney, District of Columbia.
By GLENN WILLETT,
Designated Assistant.

(Endorsed:) United States District Court. The United States of America vs. Leslie C. Stallings. Warrant to Apprehend. Issued 27 day of June, 1918. Returned and filed 6 day of July, 1918. Isaac R. Hitt, U. S. Commissioner.

Return.

Received this Warrant on the 5th day of July, 1918, at Washington, D. C., and executed the same by arresting the within named

Leslie C. Stallings, at Washington, D. C., on the 5″ day of July, 1918, and have his body now in court, as within I am commanded.

MAURICE SPLAIN,
U. S. Marshal, District of Columbia.
Per F. L. HUDSON,
Deputy.

5″ day of July, 1918.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Before me, Isaac R. Hitt, a United States Commissioner for the District of Columbia aforesaid, personally appeared this day Frank M. Helan, who, being first duly sworn, deposes and says, that in violation of Section 97, of the Act of Congress approved March 4, 1909, commonly known and referred to as the Federal Penal Code of 1910, one Leslie C. Stallings, at the times hereinafter stated, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, did unlawfully, convert to his own use, and fraudulently embezzle divers sums of money, as hereinafter more particularly set forth, that is to say:

1st. That heretofore, to wit, on the seventh day of April, in the year of our Lord, one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then *being then* and there a United States Commissioner in and for the —
Wyoming, duly appointed, qualified and acting as such
13 United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to wit, the amount of twenty eight dollars ($28.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Ira O. Wolfard to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle.

2nd. That heretofore to wit, on the nineteenth day of February, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his con-

trol certain moneys to a large amount, to wit, the amount of twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Robert F. Jones to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle.

3rd. That heretofore, to wit, on the second day of February, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said Office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to wit, the amount of twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Ray G. Martin to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State of and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid, did unlawfully convert to his own use and fraudulently embezzle.

4th. That heretofore, to wit, on the fifth day of February, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the
14 State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession, and under his control certain moneys to a large amount, to wit, the amount of thirty-one dollars ($31.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Hattie A. Tilton to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle.

5th. That heretofore, to wit, on the twentieth day of April, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the

District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control, certain moneys to a large amount, to wit, the amount of twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Percy H. Goldsmith to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle.

6th. That heretofore, to wit, on the first day of May, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to wit, the amount of twenty dollars and fifty cents ($20.50), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Albert Anderson to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle.

15 7th. That heretofore, to wit, on the twenty-fourth day of April, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commisioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to wit, the amount of eight dollars ($8.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Samuel S. Sage, to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid, did unlawfully convert to his own use and fraudently embezzle.

8th. That heretofore to wit, on the ninth day of May, in the year of our Lord one thousand nine hundred and seventeen, said Leslie C. Stallings, late of the Town of Encampment, in the

State and District of Wyoming, and within the jurisdiction of the District Court of the United States for the District of Wyoming, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to wit, the amount of eight dollars ($8.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Joseph R. Peryam to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudently embezzle.

Contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the United States of America.

(Signed) FRANK M. HELAN.

Sworn to before me, and subscribed in my presence, this 27 day of June, A. D. 1918.

[SEAL.] ISAAC R. HITT,
United States Commissioner as Aforesaid.

A true Copy:
ISAAC R. HITT, [SEAL.]
U. S. Commissioner, D. C.

16 (Endorsed.)

U. S. Commissioner Isaac R. Hitt will issue a warrant, on the within complaint, for the arrest of Leslie C. Stallings.

(Signed) JOHN E. LASKEY,
Attorney of the United States in and for the District of Columbia.

THE UNITED STATES OF AMERICA

vs.

LESLIE C. STALLINGS.

Affidavit.

I hereby certify that the within is a true and correct copy of the original affidavit on file.

[SEAL.] ISAAC R. HITT,
U. S. Commissioner as Aforesaid.

(United States Commissioner's Blanks. No. F.)

Recognizance for Appearance Before U. S. Court.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, That on this 5 day of July, A. D. 19-, before me, Isaac R. Hitt, a United States Commissioner for the said District of Columbia, personally came Leslie C. Stallings, Principal, and George W. Ray, Surety, and jointly and severally acknowledged themselves to owe the United States of America the sum of $2,000 Dollars, to be levied on their goods and chattels, land and tenements, if default be made in the condition following, to wit:

The Condition of this Recognizance is such, that if the said Leslie C. Stallings Principal shall personally appear before the District Court of the United States, in and for the District of Wyoming on the 1st day of the next 1918 term to be begun and held at the City of Cheyenne, at 10 o'clock A. M., and from time to time thereafter to which the case may be continued and then and there answer the charge of having, on or about certain sundry dates given below A. D. 1918, within said District, in violation of Section 97 U. S. Penal Code unlawfully converted to his own use & fraudulently embezzled certain sums of money received by him which moneys he
17 received as U. S. Commissioner to be paid over to the Receiver of U. S. Land Office at Cheyenne, Wyo., on following dates & of viz. am'ts:

Apr.	7/17	Rec'd	$28.	from	Ira O. Wolfard
Feb.	19/17	"	22.	"	Robert F. Jones
Feb.	2/17	"	22.	"	Ray G. Martin
Feb.	5/17	"	31.	"	Hattie A. Tilton
Apr.	20/17	"	22.	"	Percy H. Goldsmith
May	1/17	"	20.50	"	Albert Anderson
Apr.	24/17	"	8.	"	Samuel S. Sage
May	9/17	"	8.	"	Joseph R. Peryam

and then and there abide the judgment of the said Court, and not depart without leave thereof, then this Recognizance to be void, otherwise to remain in full force and virtue.

LESLIE C. STALLINGS. [SEAL.]
G. W. RAY. [SEAL.]

Taken and acknowledged before me on the day and year first above written.

[SEAL.]

ISAAC R. HITT,
United States Commissioner, as Aforesaid.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Geo. W. Ray, a surety, on the annexed recognizance, being duly sworn, deposes and says that he resides at 3332 31st St. N. W. in the City of Washington, D. C., in said District, that he is a freeholder in the City of Washington, D. C., that he is worth the sum of $50,000 Dollars, over and above all his just debts and liabilities, in property subject to execution and sale, and that his property consists of Real Estate in the District of Columbia, 3249 & 3251 M St. N. W.

(Affiant's Signature) G. W. RAY.

Sworn to and subscribed before me this 5 day of July, A. D. 1918.

[SEAL.] ISAAC R. HITT,
United States Commissioner, as Aforesaid.

(Endorsed:) United States District Court. The United States of America vs. Leslie C. Stallings. Recognizance for Appearance Before District Court. Filed on July 5, 1918.

UNITED STATES OF AMERICA,
District of Wyoming, ss:

Within the Eighth Judicial Circuit of the United States.

In the District Court of the United States for the District of Wyoming, said District being a part of and within the Eighth
18 Judicial Circuit of the United States, at a regular term of said District Court, begun and held at the City of Cheyenne, in the County of Laramie and State of Wyoming, in the District of Wyoming and Judicial Circuit aforesaid, on the thirteenth day of May, in the year of Our Lord one thousand nine hundred and eighteen.

The Grand Jurors of the United States of America, good and lawful men, summoned from the body of said District of Wyoming, within said Eighth Judicial Circuit of the United States, then and there being, and then and there being duly impaneled, sworn and charged by the court aforesaid, to diligently inquire and true presentment make for said District of Wyoming, in the name and by the authority of the United States, upon their oaths do find, charge and present:

First Count.

That heretofore, towit, on the seventh day of April, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such

officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Twenty-eight dollars ($28.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Ira O. Wolfard to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Second Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the nineteenth day of February, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so
19 acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, to-wit, the amount of Twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Robert F. Jones to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Third Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the second day of February, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States

Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Ray G. Martin, to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Fourth Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the fifth day of February, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the
20 District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Thirty-one dollars ($31.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Hattie A. Tilton, to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Fifth Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the twentieth day of April, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the District

of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Twenty-two dollars ($22.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Percy H. Goldsmith to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Sixth Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the first day of May, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and Dis-
21 trict of Wyoming, and within the jurisdiction of this court being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Twenty dollars and fifty cents ($20.50), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Albert Anderson to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Seventh Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the twenty-fourth day of April, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court,

being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Eight dollars ($8.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Samuel S. Sage to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

22 Eighth Count.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and say:

That heretofore, towit, on the ninth day of May, in the year of Our Lord one thousand nine hundred and seventeen, one Leslie C. Stallings, late of the Town of Encampment, in the State and District of Wyoming, and within the jurisdiction of this court, being then and there a United States Commissioner in and for the District of Wyoming, duly appointed, qualified and acting as such United States Commissioner, did by virtue and under color of his said office as United States Commissioner, and while he was so acting as such officer, receive and have in his possession and under his control certain moneys to a large amount, towit, the amount of Eight dollars ($8.00), which said moneys he, the said Leslie C. Stallings, had received as such United States Commissioner from one Joseph R. Peryam to be paid over to the Receiver of the United States Land Office at Cheyenne, in the State and District of Wyoming, and he, the said Leslie C. Stallings, then and there the said moneys aforesaid did unlawfully convert to his own use and fraudulently embezzle, against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

CHARLES L. RIGDON,
United States Attorney for the District of Wyoming.

Endorsements: No. 906, Crim. In the District Court of the United States for the District of Wyoming. United States of America vs. Leslie C. Stallings. Indictment for violation of Sec. 97 F. P. C. 1910. Embezzlement of moneys in connection with land office matters. (8 counts.) A True Bill: A. H. Marble, Foreman of Grand Jury. Filed May 15, 1918. Charles J. Ohmhaus, Clerk Charles L. Rigdon, United States Attorney for the District of Wyoming. David J. Howell, Assistant United States Attorney for the District of Wyoming.

UNITED STATES OF AMERICA,
District of Wyoming, ss:

I, Charles J. Ohnhaus, Clerk of the United States District Court for the District of Wyoming, do hereby certify the above and foregoing to be a true, correct and complete transcript and copy of the Indictment in case No. 906, United States of America vs. Leslie C Stallings, filed in this court May 15, 1918.

Witness my hand and the seal of said court, at Cheyenne, in said District Court, this 11th day of June, A. D. 1918.

[SEAL.] CHARLES J. OHNHAUS,
Clerk.
By FLORENCE BRADLEY,
Deputy.

23 *Department of Justice.*

United States Marshal's Office.

District of Wyoming.

CHEYENNE, WYO., June 11, 1918.

Mr. Morris Splain, U. S. Marshal, Washington, D. C.

DEAR SIR:

Enclosed please find certified copy of indictment in re Leslie C Stallings. Please make immediate arrangements to have him removed to this District or give bond to appear at the next term of the District Court, on Monday, November 11, 1918.

Respectfully,
DANIEL F. HUDSON,
United States Marshal.

H./K.
1 Encl.

THE UNITED STATES OF AMERICA,
District of Wyoming:

The President of the United States of America, To the United States Marshal of the District of Wyoming, Greeting:

You are hereby commanded that you take the body of Leslie C. Stallings if he shall be found in your District, and safely him keep, so that you have his body before the District Court of the United States, for the District of Wyoming, at the building used as *an* United States Court House, in the City of Cheyenne, in said District, Forthwith, to answer unto the United States of America, in a certain bill of Indictment preferred against him in said Court for violation of Sec. 97 F. P. C. 1910. Embezzlement of moneys in connection with land office matters. (8 Counts.)

And have you then and there this writ, with due return thereon endorsed.

Witness, the Honorable John A. Riner, Judge of the said District Court, and the seal thereof, at the City of Cheyenne, in [SEAL.] said District, this 15th day of May, A. D. 1918, and of the Independence of the United States the 142nd year.

CHARLES J. OHNHAUS,
Clerk.

By FLORENCE BRADLEY,
Deputy Clerk.

(Endorsed.)

24 No. 906.

District Court of the United States, District of Wyoming.

THE UNITED STATES OF AMERICA

vs.

LESLIE C. STALLINGS.

Bench Warrant.

The defendant may be let to bail before an United States Commissioner, in the sum of $2000.00.

CHARLES J. OHNHAUS,
Clerk.

* * * * * * *

C. L. RIGDON,
United States District Attorney.

Received & filed July 8/18. Isaac R. Hitt, U. S. Commissioner. Motion denied after argument of Counsel. Isaac R. Hitt, U. S. Commissioner. July 8/18.

In the United States Commissioner's Court in and for the District of Columbia, U. S. A.

In the Matter of LESLIE C. STALLINGS.

No. —.

Extradition Hearing.

Now comes Leslie C. Stallings, the defendant in the above entitled and numbered cause, as shown by the United States Commissioner's docket in and for the District of Columbia, and alleges, affirms, and prays the Honorable Commissioner of said Court as follows:

1st. That he was arrested in the District of Columbia on June 10th, A. D., 1918, under and by virtue of a bench warrant issued out of the United States District Court for the Judicial District of Wyoming, and transmitted to the United States Marshal for the District of Columbia, that said warrant charged the affiant with embezzlement under Section 97 of the United States Criminal Code, and that under the command of said bench warrant he was held in custody by the said United States Marshal.

2nd. That on June 11th, A. D., 1918, your affiant filed in due form an application for writ of Habeas Corpus as shown by Habeas Corpus docket in and for the Supreme Court of the District of Columbia, the said application being numbered 734, as shown by said docket; your said affiant alleged in said petition that he was illegally restrained of his liberty by reason of said arrest and incarceration; that the Honorable Chief Justice of the Supreme Court of the District of Columbia granted said application and directed that your affiant be released on bail in the sum of $2000 to await a hearing on the merits July 2nd, A. D., 1918; that a good and sufficient bail bond was given, and your affiant was released from custody under bail to await a final hearing and determination of his allegation of illegal arrest and restraint.

3rd. On the 2nd day of July, A. D., 1918, when the said cause came on for hearing in the Supreme Court of the District of Columbia, an order of continuance was granted by the Honorable Justice Hitz, and July 16th, A. D., 1918, fixed as the date for further hearing; and therefore because of the facts before stated said cause pending in the Supreme Court of the District of Columbia has not been finally disposed of by said Court.

4th. That on the 27 day of June, A. D., 1918, a warrant of arrest for your said affiant was issued from the Honorable United States Commissioner's Court in and for the District of Columbia charging your said affiant with embezzlement under a bench wararnt, and certified copy of indictment issued by and from the United States District Court in and for the District of Wyoming; the said warrant of arrest issued from the United States Commissioner's Court in and for the District of Columbia was based wholly and exclusively and grew out of the exact state of facts on which your affiant was arrested on June 10th, A. D., 1918, under the charge of embezzlement, and the sufficiency of which charge was denied by your affiant in his application for writ of Habeas Corpus as hereinbefore set forth, and the hearing on the allegation of said insufficiency is fixed in the Honorable Supreme Court for the District of Columbia for the 16th day of July, A. D., 1918, at 10 o'clock in the forenoon.

5th. That on a hearing under the warrant of arrest issued by the Honorable Commissioner's Court charging embezzlement under the warrant issued by the said Court and which hearing was held on July 5th, A. D., 1918, in the District of Columbia, it was ordered and decreed that your said affiant should return to the Judicial District of Wyoming to answer the said charge of embezzlement, and in order to avoid imprisonment and immediate return to said Dis-

[UNITED STATES COMMISSIONER'S BLANKS, No. L.]

TRANSCRIPT OF PROCEEDINGS IN CRIMINAL CASES.

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United States of America — District of Columbia SS. — Division

N. 184

THE UNITED STATES OF AMERICA

vs.

Leslie C. Stallings

FEES OF U. S. COMMISSIONER.
(See Act of May 28, 1896.)

6/27	Drawing complaint, with oath and jurat to same, 50c	50
	Copy of complaint, with certificate to same, 30c	30
	Issuing warrant of arrest, 25c; Entering marshal's return, warrant of arrest, 15c	75
7/6	Issuing subpena or subpenas in said case, 25c; with 5c for each of ... witnesses in addition to the first, ...c; Ent. return of subp., 15c	15
	Drawing temporary bond of defendant and sureties, taking acknowledgment of same and justification of sureties, 75c	
	Issu'g temp'y commitment and making copy of same, $1.00; Ent. ret. of temp. commit., 15c	
7/5	Administering oaths to 1 U. S. witnesses on trial, 10c. each ... and .... witnesses for defendant.	10
7/5	Hearing and deciding on criminal charges on the 5 day of July, 1918, and reducing the testimony to writing when required by law or order of court, per diem, $5.00	5 00
	Same, for one additional day on the ..... day of ..... 19..., because the hearing could not be completed in one day, per diem, $5.00	
9/	Drawing final bond of defendant and sureties, taking acknowledgment of same, and justification of sureties, 75c	75

Before me, Josiah R. Hitt, a United States Commissioner for said District, complaint and affidavit was made—warrant and certified copy of complaint was presented—on this 27 day of June, 1918, by Frank M. Hetzel U. S. Dep'y Marshal charging in substance that on or about the 9th inst. Sunday date of Guiar blow at State & Bank of Waynesburg in said District, the defendant, Leslie C Stallings in violation of Section 97, Chapter ____, Act ____, of the Revised Statutes of the United States Penal Code, did unlawfully receive & have in his possession & under his control certain moneys that were blow, which said moneys he had received as such U. S. Commissioner to be paid over to the Treasurer of the U. S. Court Office at Charleston, W. Va. and did contemptibly convert to his own use & possession contrary to law.

Complaint approved by the U. S. District Attorney on June 27, 1918

On June 27, 1918, issued warrant to Maurice Splain U. S. Marshal, for the District of Columbia

On July 6, 1918, warrant returned, indorsed as follows.

"Received this warrant on the 5 day of July, 1918, at Washington, D.C. and executed the same by arresting the within named Leslie C Stallings at Washington D C on the 5 day of July, 1918, and have his body now in court, as within I am commanded.

Maurice Splain U. S. Marshal. District of Columbia by F. L. Hudson Deputy."

....Issuing final commitment and making copy of same, $1.50; Ent. return of final commit., 10c.....

....Recognizance of all witnesses in the case, defendant being held for court, 10c.....

....Oath to ..... U. S. witnesses of to attendance and travel, 5c. each

....Order, in duplicate, to pay first witness on behalf U. S. 10c., and to for each of ..... additional U. S. witnesses, ... c.....

7/6 ....Transcr. of proceed., required by order of court, and transm. of original papers to court, 60c..... 60

....Copy of warrant of arrest, with certificate to same, when defendant is held for court and original papers are not sent to court, 60c

....Examination and certificate under Section 1042, R. S., and all services connected therewith (date of commitment to serve sentence, ... 19....; period of imprisonment named in sentence, ...; ..... amount of fine and costs, $.....), $2.00.....

$8 / 5

Fees of Witnesses, Guards, etc. (name of each).....

No. 2225
Warrant } page 43
Subpoena

On _____, 19__, issued subpena for the following witnesses in behalf of U. S. (or) defendant: Asa Hatfield $2.1. from Ira O. Holland Feb 19/17 Each $.22. from Ephie G. Jones Feb 9/17 Each .22 miles Ray A. Martin, Feb 27/17 $2.1. from Hattie A. Tolson Feb 20/17 Each .22. from H. Hatfield, May 7/17 Each .22 from Samuel Yeager, May 8/17 Received $ from Geo. H. Pegg, U.S. Marshal, for service and travel of witnesses.

On _____, 19__, said subpena was returned, indorsed as follows: "Received this writ _____, 19__, and on or before _____, 19__, served the same on the within named _____ by leaving a certified copy thereof with each of them personally; and on the within named _____ by leaving such copy at the usual place of residence of each of them. The other person ___ within named not found.

_____ U. S. Marshal _____ District of
_____ by _____ Deputy.

On _____, 19__, issued subpena for the following witnesses in behalf of U. S. (or) defendant: _____

On _____, 19__, said subpena was returned, indorsed as follows: "Received this writ _____, 19__, and on or before _____, 19__, served the same on the within named _____ by leaving a certified copy thereof with each of them personally; and on the within named _____ by leaving such copy at the usual place of residence of each of them. The other person ___ within named not found.

_____ U. S. Marshal _____ District of
_____ by _____ Deputy.

On July 5, 1917, defendant was brought before me, the said United States Commissioner, at my office, in the Maryland Pldg in said District, by A. W. Joyce Deputy U. S. Marshal; and the complaint was then and there fully read and explained to the said defendant, who thereupon, for plea, said he is "Not guilty" as charged in said complaint.

43

No. 2225
Warrant } page 42
Subpoena

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Stalbrago
Sylam. } page 438.

trict for trial he gave bail in the sum of $2000 to insure his appearance and answer said charges of embezzlement.

6th. In view of the foregoing state of facts your affiant respectfully asks that an order of the Honorable Commissioner's Court be entered setting aside and making of no avail his arrest and order of commitment and the fixing of bail and bond given herein, and that the said hearing of the probable cause for removal to the Judicial District of Wyoming be fixed to await the final hearing of affiant's application now pending before the Supreme Court of the District of Columbia, and your said affiant here alleges that said
26 Court under the said writ of Habeas Corpus has full, complete, and exclusive jurisdiction of all charges in this said matter until finally disposed of by appropriate orders of the said Court; and your said affiant further alleges that he believes all orders of the Honorable Commissioner's Court relating to his custody and control under the facts as before set forth are null, void, and of no force whatsoever.

7th. Your affiant therefore asks that all orders directing his arrest and appearance before the United States District Court in and for the District of Wyoming be held null, void, and of no effect, and that all papers relating thereto be held in the custody of the United States Commissioner in and for the District of Columbia to await the final decree on the application for Habeas Corpus as hereinbefore set forth.

LESLIE C. STALLINGS.

Subscribed and sworn to before me this the 8th day of July, A. D., 1918.

[SEAL.] M. GRACE DELANY,
Notary Public D. of C.

(Endorsed.)

In the U. S. Commissioner's Court.
Extradition Matter of Leslie C. Stallings.
Affidavit and application for vacating of proceedings and orders.
Received & filed July 8/18.

ISAAC R. HITT,
U. S. Commissioner.

Motion denied.

ISAAC R. HITT,
U. S. Commissioner.

(Here follow diagrams marked pages 43, 43*a* and 43*b*.)

Demurrer.

Filed in Open Court July 25, 1918.

* * * * * * *

Now comes Leslie C. Stallings, the applicant in the above styled and numbered cause, and respectfully shows the Honorable Court:

1st. That the statements and matters set forth in the return of the United States Marshal in and for the District of Columbia
27 in response to the writ of Habeas Corpus in this cause were not and are not sufficient in law to warrant the action taken by the said Marshal as set forth by him;

2nd. That the respective warrants herein involved and the indictment, as shown by the certified copy thereof filed in this cause and the matters therein stated in matter and in form are not sufficient in law to warrant the restraint of this applicant in any manner.

LESLIE C. STALLINGS.

Decree.

Filed August 20, 1918.

* * * * * * *

This cause coming on for hearing, on the twenty-fifth day of July, 1918, upon the petition for the writ of habeas corpus, the writ issued thereon, the return thereto, and the demurrer to said return, filed herein; and the petition for the writ of certiorari, the writ issued thereon, and the return thereto, filed herein, the same having been argued by counsel for the petitioner and the respondents herein, and submitted to the court; and the court now being fully advised, it is, this 20th day of August, 1918,

Adjudged, Ordered and Decreed, that petitioner's demurrer to the return herein filed by the respondent be, and it hereby is, overruled, with leave to plead to or traverse said return as petitioner may be advised.

And the petitioner, by his counsel, having duly excepted to said action of the Court, and having elected to stand on said demurrer, declaring he would neither plead to nor traverse said return, it is further

Adjudged, Ordered and Decreed, that said petition for writ of habeas corpus be, and it hereby is, dismissed; that the writ thereon issued be, and it hereby is, discharged; and that respondent have judgment for his costs and execution therefor.

And petitioner, by his counsel, having duly excepted to said action of the court, and having waived objection to the form of return to the writ of certiorari herein filed, though reserving to himself the benefit of all insufficiencies of substance therein appearing, it is further

Adjudged, Ordered and Decreed, that the petition for said writ of certiorari and the writ issued thereon be, and they hereby are, dismissed; and that the proceedings shown by the return to said writ, herein filed, be, and they are hereby, remanded to the respondent, Isaac R. Hitt, United States Commissioner, for further action according to law.

And petitioner, by his counsel, having duly excepted to said action of the court, and having in open court given notice of his intention to prosecute an appeal to the Court of Appeals, upon motion by counsel for petitioner, it is further

28 Ordered, that cost bond on appeal be of one hundred dollars, or in lieu thereof, a deposit with the clerk of this court of fifty dollars.

By the Court:

F. L. SIDDONS,
Justice.

Memorandum.

September 10, 1918.

Bond on appeal $100 with Geo. W. Ray as surety, approved and filed.

Designation of Record.

Filed October 11, 1918.

* * * * * * *

In the preparation of the record for the Court of Appeals, District of Columbia, in the above entitled cause let the same be comprised of the following filings:

Petition for Writ of Habeas Corpus:
Order directing issuance of writ:
Writ of Habeas Corpus issued to U. S. Marshal:
Return of U. S. Marshal:
Petition for Writ of Certiorari:
Affidavit of Petitioner filed with Petition:
Order for Writ:
Return of Isaac R. Hitt, United States Commissioner, and complete copy of proceedings before said Commissioner:
Defendant's demurrer:
Decree of Mr. Justice Siddons dismissing petition.
Assignment of errors.
Designation of record.

Respectfully submitted by

W. B. JAYNES,
Attorney for Appellant.

Assignments of Error.

Filed October 19, 1918.

* * * * * * *

1st. The Court erred in overruling Defendant's demurrer.

2nd. The Court erred in overruling Defendant's plea that the United States Commissioner was wholly without jurisdiction in this said cause during the pendency in the Supreme Court of the District of Columbia of an application for discharge on Habeas Corpus, and which in no manner had been heard on its merits.

29 3rd. The Court erred in overruling Defendant's plea that the allegations of the respective counts in the indictment fail to charge a crime against any law, or laws of the United States, and especially against the provisions of Section #97 of the Criminal Code of the United States.

4th. The Court erred in overruling Defendant's plea that a United States Commissioner is not an officer of the United States within the meaning of Section #97 of the Criminal Code of the United States.

5th. The Court erred in overruling Defendant's plea that the ownership of the respective sums of money alleged to have been embezzled is not set forth with sufficient legal precision as to advise him fully in respect thereto.

6th. The Court erred in directing Isaac R. Hitt, United States Commissioner, to return his transcript of proceedings in this cause, together with the original bail bond, into the United States Court for the District of Wyoming, prior to the final disposition of this said cause on appeal.

W. B. JAYNES,
Atty.

Memorandum.

October 25, 1918.

Time to file transcript of record extended to and including November 15, 1918.

Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 48, both inclusive, to be a true and correct transcript of the record, according to directions of counsel herein filed, copy of which is made part of this transcript, In the Matter of Lester C. Stallings, Applica-

tion for Writ of Habeas Corpus, Habeas Corpus No. 734, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 13th day of November, 1918.

JOHN R. YOUNG,
Clerk.

[Seal of Supreme Court of the District of Columbia.]

Endorsed on cover: District of Columbia Supreme Court. No. 3225. Leslie C. Stallings, appellant, vs. Maurice Splain, U. S. Marshal. Court of Appeals, District of Columbia. Filed Nov. 15, 1918. Henry W. Hodges, Clerk.

30 Tuesday, April 1st, A. D. 1919.

No. 3225.

* * * * * * *

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia.

The argument in the above entitled cause was commenced by Mr. W. B. Jaynes, attorney for the appellant, and was continued by Mr. J. B. Archer, attorney for the appellee, and was concluded by Mr. W. B. Jaynes, attorney for the appellant.

31 April Term 1919.

Monday, May 5th, A. D. 1919.

* * * * * * *

No. 3225.

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia.

Appeal from the Supreme Court of the District of Columbia. This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia and was argued by counsel. On consideration whereof, It is now here ordered, adjudged

and decreed by this Court that the decree of the said Supreme Court in this cause be and the same is hereby affirmed with costs.

PER MR. JUSTICE ROBB.

May 5, 1919.

32 Court of Appeals of the District of Columbia.

No. 3225.

LESLIE C. STALLINGS, Appellant,

v.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia, Appellee.

Opinion.

Mr. Justice ROBB delivered the opinion of the Court:

This appeal is from a decree in the Supreme Court of the District discharging the writ of habeas corpus that had issued on appellant's petition.

Appellant, hereinafter called the petitioner, was arrested in this District on June 10, 1918, on a bench warrant from the United States District Court for the District of Wyoming charging him with embezzlement. On June 11th he filed his petition for a writ of habeas corpus in the court below and was released on bail pending a hearing. On the 27th of June, 1918, a complaint was duly made before a United States commissioner in this District, charging petitioner with embezzlement in Wyoming. On the 5th of July, following, petitioner was arrested on the commissioner's warrant and appeared before the commissioner, whereupon petitioner having admitted his identity and former official character as described in said complaint and having entered thereto a plea of not guilty, the United States, on its part, produced a duly certified copy of the indictment pending against petitioner in the District Court of the United States for the District of Wyoming mentioned in the bench warrant * * * certain correspondence from the United States Marshal for the District of Wyoming to the United States Marshal for this District, all of which were admitted in evidence without objection by petitioner." Thereupon petitioner moved for his discharge, the motion was denied, and petitioner, at his request, was admitted to bail for his appearance in the District Court of the United States for the District of Wyoming.

On July 18, 1918, petitioner applied in the habeas corpus proceeding for a writ of certiorari to the commissioner, averring that the acts of the commissioner "are wholly void and of no effect, because petitioner's application in habeas corpus was then pending in full force." The writ was directed to issue. Petitioner then demurred to the return of the marshal herein, which return set forth the foregoing facts. The case came on for hearing "upon the petition for the writ of habeas corpus, the writ issued thereon, the return thereto, and the de-

murrer to said return filed therein; and the petition for the writ of certiorari, the writ issued thereon, and the return thereto." Petitioner's demurrer to the marshal's return was overruled, with leave to plead to or traverse the return. Petitioner electing to stand upon his demurrer, the court dismissed the petition and discharged the writ.

The preliminary arrest of petitioner which gave rise to this proceeding was regular and proper. Code, Sec. 930; 2 Moore on Extradition, Secs. 592 to 595; Union Pacific R. Co. v. Belek, 211 Fed., 699. It is settled law that an accused person may be held a reasonable time to await the preparation and transmission of extradition papers from the demanding State.

As to the contention that the commissioner was wholly without jurisdiction during the pendency of the habeas corpus proceedings, and therefore that his acts were null and void, it may not be questioned that he had jurisdiction of the subject-matter before him. Petitioner had given bail for his appearance in the habeas corpus proceeding, in which he sought to have tested the legality of his detention under the preliminary warrant. He was arrested under the warrant issued by the commissioner upon final complaint. Hearing was accorded him by the commissioner, which resulted in his being held for extradition. Instead of seeking protection from the court out of which the writ of habeas corpus had issued, petitioner elected to give bail before the commissioner for his appearance in Wyoming, there to answer the indictment against him. Inasmuch as the commissioner had jurisdiction on the subject-matter, petitioner by pleading to the complaint and giving bail, waived any right to question the jurisdiction of the commissioner over the person. And this conclusion is not inconsistent with the decision of the court in the Farez case, 7 Blatchford Cir. Ct. Rep., 34, 8 Fed., Cases, 1006, relied upon by petitioner. Farez was arrested and sued out a writ of habeas corpus. Thereupon another warrant,, designed to cure the defects in the first was placed in the hands of the marshal and that officer served the second warrant upon Farez, who already was in his custody. The opinion states that "no proceeding took place under the second warrant, except the arrest of Farez under it." The court found that "when the question of the lawfulness of the detention under the first warrant should have been disposed of, then the marshal could properly proceed to execute the second warrant, and not before." That the arrest under the second warrant was not wholly void is apparent from the fact that there follows a careful consideration of the second warrant and a finding that it, too, was defective. The most that may be said in the present case is that the marshal should have held the warrant issued by the commissioner until the decision of the court; but, as we have seen, it by no means follows that the proceeding before the commissioner was void. Inasmuch as the commissioner had jurisdiction of the subject-matter and petitioner submitted to jurisdiction over his person by pleading and giving bail before the commissioner to appear in Wyoming, the court in the habeas corpus hearing was not called upon further to inquire into the proceeding before the commissioner.

There is another view that may be taken of this case, with the same result. If, as petitioner contends, the warrant of the commissioner was "ilegal, null and void" and "his entire proceedings were void and of no effect," then the preliminary warrant remained. As we have found that the arrest under that preliminary warrant was regular and legal, it results that in any event the writ was properly discharged.

The decree is affirmed, with costs. Affirmed.

33 In the Court of Appeals, District of Columbia, January Term, 1919.

No. 3225.

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia, Appellee.

Now comes Leslie C. Stallings, by his attorney of record, William B. Jaynes, and respectfully asks that permission be granted for the prosecution of an appeal to the Honorable Supreme Court of the United States from the final judgment rendered by the Honorable Court of Appeals of the District of Columbia in the above styled and numbered cause on the 5th day of May, A. D., 1919, and states that he verily believes the below enumerated questions requiring a construction of certain laws of the United States are involved, and which therefore he says brings this application clearly within the certain provisions of Section 250 of the Judicial Code of the United States as applicable to appeals from the final judgments and decrees of the Court of Appeals of the District of Columbia, and therefore seeks a further determination of the involved questions by submitting them to the Honorable Supreme Court of the United States. Among other legal questions which may be involved are the following which seem of the most high importance to the petitioner:

1st. The scope of the powers and duties of a United States Commissioner as made and provided for in the laws of the United States:

2nd. The laws of the United States as related to the rights of an applicant under the Writ of Habeas Corpus:

3rd. The construction of Section 97 of the Code of Criminal Procedure of the United States as applied to acts authorized or unauthorized of the United States Commissioners:

4th. The laws of the United States as related to the removal of a defendant under indictment pending in a Court of the United States

from a judicial district of the United States other than that wherein the indictment was returned and is pending.

WILLIAM B. JAYNES,
Attorney for Appellant.

Appeal allowed,
C. J. SMYTH,
Chief Justice.

(Endorsed:) No. 3225. Leslie C. Stallings, Appellant, vs. Maurice Splain, United States Marshal in and for the District of Columbia, Appellee. Motion for appeal to the United States Supreme Court Court of Appeals, District of Columbia. Filed Jul. 30, 1919. Henry W. Hodges, Clerk.

34 Wednesday, July 30th, A. D. 1919.

* * * * * * *

No. 3225.

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia.

On consideration of the appellant's motion for an appeal to the Supreme Court of the United States in the above entitled cause, It is by the Court this day ordered that said motion be, and the same is hereby granted, and the bond for costs is fixed at the sum of three hundred dollars.

35 (*Bond on Appeal.*)

Know all men by these presents, That we, Leslie C. Stallings, as principal, and G. W. Ray, as surety, are held and firmly bound unto Maurice Splain, United States Marshal in — for the District of Columbia, in the full and just sum of three hundred dollars, to be paid to the said Splain his certain attorney, executors, administrators, or assigns; to which payment, well and rtuly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this first day of August, in the year of our Lord one thousand nine hundred and nineteen.

Whereas, lately at a Court of Appeals of the District of Columbia in a suit depending in said Court, between Leslie C. Stallings and Maurice Splain, United States Marshal in and for the District of Columbia, No. 3225, January Term, 1919, a decree was rendered against the said Stallings and the said Stallings having prayed and obtained an appeal to the Supreme Court of the United States to re-

verse the decree in the aforesaid suit, and a citation directed to the said *the said* Splain citing and admonishing him to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date thereof;

Now, the condition of the above obligation is such, That if the said Stallings shall prosecute said appeal to effect, and answer all costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

LESLIE C. STALLINGS. [SEAL.]
G. W. RAY. [SEAL.]

Sealed and delivered in presence of:
W. B. JAYNES.

Approved by:
CONSTANTINE J. SMYTH,
Chief Justice Court of Appeals
of the District of Columbia.

Aug. 1, 1919.

Approved as to financial sufficiency of G. W. Ray, Surety.
PAUL B. CROMELIN,
Ass't U. S. Attorney, D. C.

[Endorsed:] No. 3225. Leslie C. Stallings, Appellant, vs. Maurice Splain, United States Marshal in and for the District of Columbia. Bond for costs on appeal to Supreme Court, U. S. Court of Appeals, District of Columbia. Filed Aug. 6, 1919. Henry W. Hodges, Clerk.

36 UNITED STATES OF AMERICA, *ss:*

To Maurice Splain, United States Marshal in and for the District of Columbia, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an order allowing an appeal, filed in the Clerk's Office of the Court of Appeals of the District of Columbia, wherein Leslie C. Stallings is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the appellant, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Constantine J. Smyth, Chief Justice of the Court of Appeals of the District of Columbia, this 6th day of August, in the year of our Lord one thousand nine hundred and nineteen.

CONSTANTINE J. SMYTH,
Chief Justice of the Court of Appeals
of the District of Columbia.

Service accepted this 6" day of August, A. D. 1919.

JAMES B. ARCHER,
Ass't U. S. Att'y, D. C.

37 In the Court of Appeals, District of Columbia, January Term, 1919.

No. 3225.

LESLIE C. STALLINGS, Appellant,

vs.

MAURICE SPLAIN, United States Marshal in and for the District of Columbia, Appellee.

Assignment of Errors.

1st. The Court erred in its judgment that Appellant's arrest and detention on June 10, 1918, was made under and by authority of the provisions of Section 930 of the Code of Laws for the District of Columbia:

2nd. The Court erred in its judgment that the United States Commissioner had jurisdiction of the person of Appellant previous to the full and final determination of the merits of the Writ of Habeas Corpus under which he was released from prison under good and sufficient bail on June 11, 1918:

3rd. The Court erred in its judgment that the Appellant waived any of his legal rights as embraced in the Writ of Habeas Corpus by giving bail in compliance with the alternative order of the United States Commissioner on July 5, 1918:

4th. The Court erred in its judgment that the preliminary arrest on June 10, 1918, and the discharge of Appellant's writ thereunder was regular and legal:

5th *5th.* The Court erred in its failure to consider and sustain Appellant's assignment of error #3, which alleged "the Court erred in overruling Defendant'e plea that the allegations of the respective counts in the indictment failed to charge a crime against any law, or laws of the United States, and especially against the provisions of Section #97 of the Criminal Code of the United States":

6th. The Court erred in its failure to consider and sustain Appellant's assignment of error #4, which alleged "the Court erred in overruling Defendant's plea that the United States Commissioner is not an officer of the United States within the meaning of Section #97 of the Criminal Code of the United States":

38 7th. The Court erred in its failure to consider and sustain Appellant's assignment of error #5, which alleged "the Court erred in overruling Defendant's plea that the ownership of the respective sums of money alleged to have been embezzled is not set forth with sufficient legal precision as to advise him fully in respect thereto":

8th. The Court erred in its failure to consider and sustain Appel-

lant's assignment of error #6, which alleged "the Court erred in directing Isaac R. Hitt, United States Commissioner, to return his transcript of proceeding in this cause, together with the original bail bond, into the United States Court for the District of Wyoming, prior to the final disposition of this said cause on appeal":

9th. The Court erred in its failure to consider and sustain Appellant's assignment of error #1, which alleged "the Court erred in overruling Defendant's demurrer".

WILLIAM B. JAYNES,
Attorney for Appellant.

39 [Endorsed:] No. 3225. In the Court of Appeals, District of Columbia, January Term, 1919. Leslie C. Stallings, Appellant, vs. Maurice Splain, U. S. Marshal. Assignment of Errors. Court of Appeals, District of Columbia. Filed Aug. 7, 1919. Henry W. Hodges, Clerk.

40 Court of Appeals of the District of Columbia.

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numberes from 1 to 38 inclusive, constitute a true copy of the transcript of record and proceedings of said Court of Appeals, in the case of Leslie C. Stallings, Appellant, vs. Maurice Splain, United States Marshal in and for the District of Columbia. No. 3225, April Term, 1919, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this 7th day of August, A. D. 1919.

[Seal Court of Appeals, District of Columbia, 1893.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No. 27,289. District of Columbia Court of Appeals. Term No. 534. Leslie C. Stallings, appellant, vs. Maurice Splain, United States Marshal in and for the District of Columbia. Filed September 4th, 1919. File No. 27,289.

In the Supreme Court of the United States

OCTOBER TERM, 1919.

LESLIE C. STALLINGS, APPELLANT, v. MAURICE SPLAIN, UNITED STATES MARSHAL in and for the District of Columbia.	No. 534.

ON APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

MOTION ON BEHALF OF APPELLEE TO ADVANCE.

Comes now the Solicitor General on behalf of the appellee, and respectfully moves the advancement of the above-entitled cause for hearing during the present term.

Appellant was apprehended in the District of Columbia on a bench warrant issued by the District Court for Wyoming, charging embezzlement, in violation of section 97, Penal Code. A petition for writ of habeas corpus was filed in the Supreme Court of the District of Columbia and appellant released on bail pending final hearing. Subsequently, but prior to such final hearing, he was arrested on a warrant issued by a United States commissioner for the Dis-

trict of Columbia and held to bail to secure his appearance before the Wyoming court. On certiorari the proceedings before the commissioner were certified to the Supreme Court of the District of Columbia, it being contended that the commissioner had no jurisdiction in the premises during the pendency of the habeas corpus case. Demurrer was also interposed to the return made by the marshal to the writ of habeas corpus. The demurrer was overruled and the case appealed to the Court of Appeals of the District of Columbia. This appeal is taken from an order of that court affirming the decree of the court of first instance, the appellate court holding that by pleading to the complaint filed before the commissioner and by giving bail to secure his appearance before the Wyoming court, appellant had waived any right he might have had to question the jurisdiction of said commissioner.

It is desired that early hearing may be had in this case in order that appellant may be as speedily as possible brought to trial on the indictment found against him in Wyoming. Appellant is now at liberty on bail pending the determination of this appeal.

Notice of this motion has been served on opposing counsel.

ALEX. C. KING,
Solicitor General.

MARCH, 1920.

○

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 534.

LESLIE C. STALLINGS, APPELLANT,

vs.

MAURICE SPLAIN, UNITED STATES MARSHAL IN AND FOR THE DISTRICT OF COLUMBIA, APPELLEE.

ON APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

BRIEF OF APPELLANT IN OPPOSITION TO MOTION OF APPELLEE TO ADVANCE.

Now comes the appellant by his attorney, William B. Jaynes, and opposes the motion to advance the above-entitled cause for hearing during the present term, for the reason that the questions of law presented for determination by this court are intricate, difficult, and complicated, and require more time for careful and thorough preparation than would be available if the case is taken out of its regular position and

advanced, and submits the following statement of facts in support of such opposition:

Appellant was arrested in the District of Columbia on June 10, 1918, by the appellee on a bench warrant issued by the United States District Court of Wyoming, charging embezzlement as United States commissioner, in violation of section 97, Penal Code. A petition for writ of *habeas corpus* was filed in the Supreme Court of the District of Columbia on June 11, 1918, and appellant was released on bail to await the termination of that proceeding. The hearing on that writ was fixed for July 16, 1918. On July 5, 1918, appellant was again arrested by the appellee on the identical charge as that set forth in the warrant of arrest executed June 10th in response to a warrant issued by a United States commissioner in the District of Columbia. The appellant was carried before a United States commissioner, and after hearing was held for removal, notwithstanding the then pending *habeas corpus* proceedings. When appellant's removal to Wyoming was directed by the commissioner he then, in order to avoid imprisonment, gave bail for his appearance in that court. On the 8th day of July, 1918, appellant filed a motion with the United States commissioner, asking that he vacate all his proceedings in connection therewith, and await the final findings in the then pending *habeas corpus* proceedings, and that motion was denied. Subsequently a writ of certiorari was issued by the Supreme Court of the District of Columbia, and a review asked of the commissioner's proceedings; but that writ was dismissed on August 20, 1918; appeal was taken to the Court of Appeals of the District of Columbia, where the proceedings of the lower court were sustained, and from that decision this appeal was taken.

Appellant further alleges that the record in this case was not available until the 15th day of February, 1920, and therefore it will be practically impossible to properly prepare the brief and argument on the important questions involved therein in a shorter time than the regular and orderly pro-

cedure of this court allows, and therefore the appellant respectfully prays that the motion to advance be denied, and this case be called for argument in its regular order, according to the rules and practice of this court.

The motion to advance, the appellant respectfully submits, shows no urgent necessity therefor.

Respectfully submitted,

WILLIAM B. JAYNES,

Attorney for Appellant.

(1014)